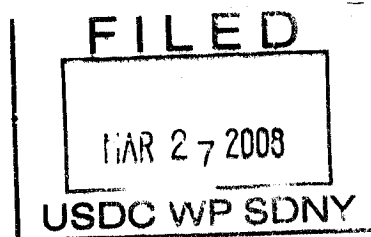


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
RICHARD P. ASSAM,  
on behalf of himself and all others similarly situated,

CLASS ACTION COMPLAINT

Plaintiff,

-against-

**08 CIV. 3145**

MIDLAND CREDIT MANAGEMENT, INC.

Defendant

**JUDGE CHIN**

-----X  
Plaintiff, by and through his undersigned attorney, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Richard P. Assam (hereinafter "Assam") is a resident of the State of New York, Bronx County. On or about February 8, 2008, plaintiff received an initial debt collection notice from defendant Midland Credit Management, Inc.

5. Defendant Midland Credit Management, Inc. (hereinafter "MCM") is a Kansas Corporation engaged in the business of collecting debts. Defendant regularly attempts to collect debts alleged to be due another. Its Registered Agent is The Corporation Company, Inc., 515 South Kansas Avenue, Topeka, KS 66603.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of himself and all consumers who have received debt collection notices and/or letters from the defendant which are in violation of the FDCPA, as of the date of plaintiff's complaint, and their successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of Midland Credit management, Inc. and Midland Funding LLC.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, hundreds of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(10), 1692g(a)(4), 1692g(a)(5) and 1692g(b).

b. Whether plaintiff and the Class have been injured by the defendant's conduct;

c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

d. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

15. On or about February 8, 2008, defendant did send to the plaintiff an initial collection letter. Copy of said letter is annexed hereto as Exhibit A.
16. The February 8, 2008 collection letter stated that Midland Funding LLC purchased Mr. Assam's Aspire Visa account.
17. Defendant received by a dispute letter from the consumer which disputed the validity of the debt, disputed that Midland Funding LLC is the owner of the Aspire Visa account, requested verification of the debt and requested the name and address of the original creditor. Exhibit B.
18. Defendant Midland Credit Management, Inc. responded with a letter dated March 17, 2008, which requested immediate payment in full. Exhibit C.
19. Defendant improperly communicated with the consumer concerning a timely disputed debt prior to mailing the consumer the verification records such as the name and address of the original creditor.
20. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

FIRST CAUSE OF ACTION  
(Violations of the FDCPA)

21. Each of the above allegations is incorporated herein.
22. Defendant's debt collection attempts violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(10), 1692g, 1692g(a)(4), 1692g(a)(5) and 1692g(b) by falsely and deceptively attempting to collect debts, when it cannot evidence basic

foundational information including the name and address of the original creditor and proof that Midland purchased the account at issue.

23. As a result of defendant's violations of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney's fees.

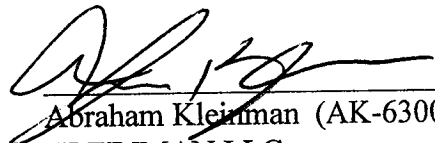
**WHEREFORE**, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding class members the maximum statutory damages.
- d) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- e) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: March 27, 2008  
Uniondale, New York

  
Abraham Kleinman (AK-6300)  
KLEINMAN LLC  
626 RexCorp Plaza  
Uniondale, New York 11556-0165  
Telephone (516) 522-2621  
Facsimile (888) 522-1692





Dept. 12421  
PO Box 1259  
Oaks, PA 19456

## Settlement Opportunity

Contact Information: Tel (800) 825-8131

Hours of Operation: M-Th 6am - 7pm; Fri 6am - 5pm;  
Sat 6am - Noon PST

Current Owner: Midland Funding LLC

Original Creditor: ASPIRE VISA

MCM Account No.: 8524549807

Current Balance: \$1,279.86

Payment Due Date: 03-24-2008

02-08-2008

#BWNHLTH

2345-3832

#0000 0852 4549 8077#

RICHARD P ASSAM

2851 WEBB AVE APT 2D

BRONX, NY 10468-2144

- Dear RICHARD P. ASSAM,

Welcome! We have a great offer for our new customers.

Midland Funding LLC recently purchased your ASPIRE VISA account and Midland Credit Management, Inc. ("MCM"), a debt collection company, is the servicer of this obligation. As the new servicer of this account, we would like to find a positive resolution to your account.

Midland Credit Management, Inc. (MCM) is currently able to offer you a discount of **40% off** your Current Balance *if we receive payment by 03-24-2008*.

What's In It For You? Once MCM receives your payment of \$767.92, we will:

- Notify the credit bureaus that the debt is "Paid in Full". \*
- Immediately stop all recovery activity on this account.

To accept this offer, simply detach the Acceptance Certificate below and enclose it with your \$767.92 payment in the envelope provided. *Please mail your payment no later than 03-17-2008* in order to receive credit for the 40% off discount by the expiration date 03-24-2008.

If you prefer to speak with one of our Account Managers, please contact us at (800) 825-8131.

**NOTICE: PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

Midland Credit Management, Inc.  
(800) 825-8131

*Please tear off and return lower portion with payment in envelope provided -*

### Acceptance Certificate

RICHARD P ASSAM  
2851 WEBB AVE APT 2D  
BRONX, NY 10468-2144

MCM Account Number: 8524549807

Current Balance: \$1,279.86

Amount Due: \$767.92

Make Check Payable to: Midland Credit  
Management, Inc.

Payment Due Date: 03-24-2008



Midland Credit Management, Inc.  
Department 8870  
Los Angeles, CA 90084-8870.



12 8524549807 7 0076792 032408 3





**SHAKED & POSNER**

ATTORNEYS-AT-LAW  
255 WEST 36<sup>TH</sup> STREET  
8<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10018

TEL (212) 300-2091  
FAX (212) 300-2010

DAN SHAKED  
MICHAEL C. POSNER\*  
\*ALSO ADMITTED IN NY

March 4, 2008

Midland Credit Management, Inc.  
Attn: Dispute Department  
Department 8870  
Los Angeles, CA 90084-8870

Re: Midland Funding, LLC w/Richard Assam  
MCM Account No. 8524549807  
Disputed Amount: \$1,279.86

To Whom It May Concern:

Please be advised that I represent Richard Assam.

Pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692g, you are advised that the validity of this debt is disputed.

Please be further advised that my client disputes the assertion that this disputed Aspire Visa account was purchased by Midland Funding, LLC.

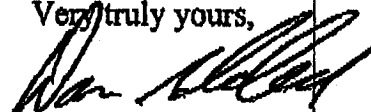
Please obtain verification of this disputed debt and send verification to Shaked & Posner.

Please send verification that Midland Funding, LLC purchased this Aspire Visa account.

Please provide Shaked & Posner the full corporate name of the original creditor.

Please provide Shaked & Posner the address of the original creditor.

Very truly yours,



Dan Shaked, Esq.





P.O. BOX 939019  
SAN DIEGO, CA 92193-9019

03/17/2008

RICHARD P ASSAM  
225 W 36TH ST 8TH FL  
C/O SHAKED & POSNER  
NEW YORK, NY 10018

RE: ASPIRE VISA  
Account 8524549807  
Balance: \$1,352.42

Dear RICHARD P ASSAM

Per your request, enclosed are documents for the above referenced account.

Midland Credit Management Inc. is requesting an immediate payment of balance in full. Upon receipt of the payment and payment clearing the bank, we will report a "paid" status on your credit report for the above referenced account.\*

Please call us upon receipt of this letter at 800-825-8131 ext. 2980 so that we may discuss this matter further.

Please understand that this communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Bente L.", is written over the word "Sincerely,". Below the signature, the words "Consumer Relations" are printed.

Consumer Relations

Enclosures

\*Your credit report will not be updated if the federal reporting period has expired, or we have not previously reported on this account.

New York City Department of Consumer Affairs License Number 1140603

QCMC

## Transaction History

RICHARD P ASSAM			ASPIRE VISA		Acct# 4564190012394333
Date	Description	Reference	Sic Location	Amount	
APR 18, 2006	C TOWN S90	24761976109511108011384	5411 BRONX, NY	\$24.63	
APR 18, 2006	RITE AID STORE 3359	24792626109749033591096	5912 BRONX, NY	\$18.88	
APR 19, 2006	ATLAS ATM/1200 MORRIS PAR	74001356109000417075702	6011 BRONX, NY	\$21.50	
APR 20, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356109000417075702		\$5.00	
APR 20, 2006	CARDTRONICS LP/1300 MORRI	74088136110000558743636	6011 BRONX, NY	\$100.00	
APR 21, 2006	CARDTRONICS LP/1300 MORRI	74088136111000733253759	6011 BRONX, NY	\$40.00	
APR 21, 2006	C TOWN S90	24761976112511111010880	5411 BRONX, NY	\$19.20	
APR 21, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74088136110000558743636		\$5.00	
APR 21, 2006	0999890001960/1406 WHITE	74089156111000545701521	6011 BRONX, NY	\$81.50	
APR 21, 2006	BLOCKBUSTER VIDEO #36070	24810436112072014132429	7841 BRONZ, NY	\$35.75	
APR 23, 2006	BOGEE SUPE/2891 SEDGWICK	74001356113000610443610	6011 BRONX, NY	\$21.50	
APR 23, 2006	C TOWN S90	24761976114511113010523	5411 BRONX, NY	\$25.45	
APR 23, 2006	C TOWN S90	24761976114511113011430	5411 BRONX, NY	\$20.09	
APR 23, 2006	BOGEE SUPE/2891 SEDGWICK	74001356113000726283603	6011 BRONX, NY	\$61.50	
APR 24, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74089156111000545701521		\$5.00	
APR 24, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356113000726283603		\$5.00	
APR 24, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74088136111000733253759		\$5.00	
APR 24, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356113000610443610		\$5.00	
APR 24, 2006	BLOCKBUSTER VIDEO #36070	24810436115072024197450	7841 BRONZ, NY	\$43.35	
APR 25, 2006	24 HOURS DV/1001 WILLIAMSB	74001356115000579963663	6011 BRONX, NY	\$21.75	
APR 25, 2006	ACTORS FCU/1101 EAST TREM	74089146115000670747890	6011 BRONX, NY	\$60.99	
APR 26, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74089146115000670747890		\$5.00	
APR 26, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356115000579963663		\$5.00	
MAY 02, 2006	CARDTRONICS LP/1300 MORRI	74088136122000726763662	6011 BRONX, NY	\$20.00	
MAY 02, 2006	MCDONALD'S F2885	24455016122720014813606	5814 BRONX, NY	\$5.60	
MAY 03, 2006	BOGEE SUPE/2891 SEDGWICK	74001356123000767173633	6011 BRONX, NY	\$41.50	
MAY 03, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74088136122000726763662		\$5.00	
MAY 04, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356123000767173633		\$5.00	

## Transaction History

RICHARD P ASSAM		ASPIRE VISA		Acct# 4564190012394333	
Date	Description	Reference	Sic	Location	Amount
MAY 04, 2006	DELEYSY DE/593 BANK NEST	74001356124000878783680	6011	BRONX, NY	\$61.50
MAY 04, 2006	C TOWN S90	24761976125311124011566	5411	BRONX, NY	\$10.40
MAY 05, 2006	EASTCHESTERCHE/2048 EASTC	74301926125125202764256	6011	BRONX, NY	\$41.50
MAY 05, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356124000678783680			\$5.00
MAY 05, 2006	BOGEE SUPE/2891 SEDGWICK	74001356125000803303619	6011	BRONX, NY	\$21.50
MAY 07, 2006	C TOWN S90	24761976129511127010042	5411	BRONX, NY	\$7.77
MAY 08, 2006	M & R DELI/1200 MORRIS PA	74001356128000461755701	5011	BRONX,, NY	\$21.50
MAY 08, 2006	CASH ADVANCE *FINANCE CHARGE*				\$6.41
MAY 08, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74301926125125202764256			\$5.00
MAY 08, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356125000803303619			\$5.00
MAY 09, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74001356128000461755701			\$5.00
MAY 09, 2006	PELHAM BAY CAR WASH	24492806129118000100108	7542	BRONX, NY	\$19.51
MAY 10, 2006	CARDTRONICS LP/1300 MORRI	74088136130000410263672	6011	BRONX, NY	\$20.00
MAY 10, 2006	C TOWN S90	24761976131511130011396	5411	BRONX, NY	\$14.24
MAY 10, 2006	CARDTRONICS LP/1300 MORRI	74088136130000744563664	6011	BRONX, NY	\$40.00
MAY 11, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74088136130000744563664			\$5.00
MAY 11, 2006	*FINANCE CHARGE* CASH ADVANCE FE	74088136130000410263672			\$5.00
JUN 05, 2006	LATE PAYMENT CHARGE				\$35.00
JUN 07, 2006	CASH ADVANCE *FINANCE CHARGE*				\$18.63
JUN 07, 2006	PURCHASE *FINANCE CHARGE*				\$6.10
JUN 08, 2006	PAYMENT RECEIVED -- THANKYOU	74791066159615900066203			-\$100.00
JUN 13, 2006	SHOPPER SVC 8662971823	74247286164800501299299	6299		\$1.95
JUL 07, 2006	PURCHASE *FINANCE CHARGE*				\$6.31
JUL 07, 2006	CASH ADVANCE *FINANCE CHARGE*				\$17.02
AUG 02, 2006	MCDONALD'S F2885	24453016214720015826085	5814	BRONX, NY	\$6.48
AUG 04, 2006	LATE PAYMENT CHARGE				\$35.00
AUG 07, 2006	PURCHASE *FINANCE CHARGE*				\$6.50
AUG 07, 2006	CASH ADVANCE *FINANCE CHARGE*				\$17.45

# Transaction History

RICHARD P ASBAM

ASPIRE VISA

Acct# 4564190012394333

Date	Description	Reference	Sto Location	Amount
AUG 24, 2006	PAYMENT RECEIVED -- THANKYOU	74791066236623600038222		
SEP 04, 2006	LATE PAYMENT CHARGE			-\$32.00
SEP 07, 2006	PURCHASE *FINANCE CHARGE*			\$35.00
SEP 07, 2006	CASH ADVANCE *FINANCE CHARGE*			\$5.80
SEP 25, 2006	PAYMENT RECEIVED -- THANKYOU	74791066267000021004137		\$17.00
SEP 25, 2006	RETURN NSF	74791066275999275000214		-\$60.96
OCT 02, 2006	NSF PROCESSING FEE	74791066275999275000214		\$60.96
OCT 05, 2006	LATE PAYMENT CHARGE			\$35.00
OCT 10, 2006	PURCHASE *FINANCE CHARGE*			\$35.00
OCT 10, 2006	OVERLIMIT FEE			\$6.97
OCT 10, 2006	CASH ADVANCE *FINANCE CHARGE*			\$35.00
OCT 30, 2006	MC ON LINE PAYMENT	74791066303000000001128 505	ATLANTA, GA	\$17.52
NOV 07, 2006	CASH ADVANCE *FINANCE CHARGE*			-\$25.00
NOV 07, 2006	PURCHASE *FINANCE CHARGE*			\$5.86
DEC 07, 2006	CASH ADVANCE *FINANCE CHARGE*			\$2.35
DEC 07, 2006	PURCHASE *FINANCE CHARGE*			\$5.77
JAN 08, 2007	PURCHASE *FINANCE CHARGE*			\$2.37
JAN 08, 2007	CASH ADVANCE *FINANCE CHARGE*			\$2.39
FEB 07, 2007	CASH ADVANCE *FINANCE CHARGE*			\$5.81
FEB 07, 2007	PURCHASE *FINANCE CHARGE*			\$5.88
MAR 07, 2007	CASH ADVANCE *FINANCE CHARGE*			\$2.41
MAR 07, 2007	PURCHASE *FINANCE CHARGE*			\$3.91
APR 09, 2007	CASH ADVANCE *FINANCE CHARGE*			\$2.43
APR 09, 2007	PURCHASE *FINANCE CHARGE*			\$5.96
MAY 07, 2007	PURCHASE *FINANCE CHARGE*			\$2.45
MAY 07, 2007	CASH ADVANCE *FINANCE CHARGE*			\$2.47
JUN 07, 2007	CASH ADVANCE *FINANCE CHARGE*			\$6.01
JUN 07, 2007	PURCHASE *FINANCE CHARGE*			\$6.06
				\$2.49